

PUBLIC CHAPTER NO. 420

SENATE BILL NO. 317

By Henry

Substituted for: House Bill No. 1080

By Mike Turner

AN ACT to amend Tennessee Code Annotated, Title 66, Chapter 24, relative to the registration and recording of documents and electronic records in the office of county register, and to enact the Uniform Real Property Electronic Recording Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-24-101(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d)(1) The county register may register a copy of an electronic document if the writing is otherwise eligible for registration and the electronic document is certified as a true and correct copy of the original as required in subdivision (2). For purposes of this section, an electronic document is defined as one of the following:

(A) A writing created or retained as an electronic record in accordance with the Uniform Electronic Transactions Act (UETA) or the Uniform Real Property Electronic Recording Act (URPERA), as codified in this state or a substantially similar law of another state as defined in the URPERA, and transmitted to the county register electronically, or a paper copy of such an electronic record; or

(B) A writing that is a digitized image of a paper document (electronic copy) that is transmitted to the county register electronically.

(2) The certification of an electronic document shall be made by either a licensed attorney or the custodian of the electronic version of the document and the signature of such person shall be acknowledged by a notary public. The certification shall be transmitted with the electronic document and shall be recorded by the county register as a part of the document being registered. The certification of electronic document shall be in substantially the following form:

I, _____, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

Signature

State of _____

County of _____

Personally appeared before me, _____, a notary public for this county and state, (name of person making certification) who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

MY COMMISSION EXPIRES: _____.

Notary's Seal (If on paper)

(3) All electronic documents eligible for registration pursuant to this subsection are validly registered when accepted for recording by the county register. Electronic documents registered by county registers prior to July 1, 2007 shall be considered validly registered with or without the certification provided in subdivision (2).

(4) No county register shall be required to accept a document transmitted electronically.

SECTION 2. Tennessee Code Annotated, Title 66, Chapter 24, is amended by designating the current sections as Part I and by adding and designating the following as Part 2:

Section 66-24-201. This part shall be known and may be cited as the "Uniform Real Property Electronic Recording Act."

Section 66-24-202. As used in this part, unless the context otherwise requires:

(1) "Digitized image" means an electronic document that is created as an electronic copy of a paper document that accurately depicts the information on the paper document and is unalterable.

(2) "Document" means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the county register;

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(4) "Electronic document" means a document that is received by the county register in an electronic form;

(5) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document;

(6) "Paper document" means a document that is received by the county register of deeds in a form that is not electronic;

(7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(9) "Wet Signature" means a signature affixed in ink or pencil or other material to a paper document.

Section 66-24-203.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this part.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature or a digitized image of a wet signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature or a digitized image of a wet signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(d) (1) A county register may receive for registration any electronic document that is created by making a digitized image of an original paper document that is eligible for registration, and beginning July 1, 2007, has the certification required by § 66-24-101(d).

(2) All recordings of electronic documents eligible for registration pursuant to this subsection are validly registered when accepted for recording by the county register. Electronic documents registered by county registers prior to the effective date of this act shall be considered validly registered.

Section 66-24-204.

(a) A county register: (1) Who implements any of the functions listed in this section shall do so in compliance with standards established by the information systems council established under § 4-3-5501;

(2) May receive, index, store, archive, and transmit electronic documents;

(3) May provide for access to, and for search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) May convert paper documents accepted for recording into electronic form;

(6) May convert into electronic form information recorded before the county register began to record electronic documents;

(7) May accept electronically any fee or tax that the county register is authorized to collect;

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes; and

(9) May refuse to record any document transmitted electronically to the county register for recording under this act on and after July 1, 2007 that does not comply with § 66-24-101.

(b) Any electronic documents or digitized images accepted by the county register prior to the effective date of this act are deemed to be recorded properly and to impart constructive notice.

Section 66-24-205. (a) The information systems council shall adopt standards to implement this part.

(b) To keep the standards and practices of county registers in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this act and to keep the technology used by county registers in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this act, the information systems council so far as is consistent with the purposes, policies, and provisions of this part, in adopting, amending, and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

Section 66-24-206. Nothing in this part, or any other provision of law, shall be construed to require county registers to receive a document electronically.

SECTION 3. If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: May 31, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 13th day of June 2007



PHIL BREDESEN, GOVERNOR